

Town of Nolensville
Board of Mayor and Aldermen Meeting
Date: November 1, 2007, Time 7:00 p.m.
Nolensville Elementary School

Mayor Beth Lothers opened the meeting at 7:02 p.m. Members present were Mayor Lothers, Aldermen Jimmy Alexander, Joe Curtsinger, Tommy Dugger, and Ken Thomas. Staff present: Counsel Robert Notestine, Town Planner Henry Laird, Consultants Bobby Garland and Tom Allen and Recorder Cindy Lancaster. There were 44 citizens present.

Prayer and pledge was led by Pastor Sandy Shawhan of the Nolensville United Methodist Church she ask that the Jeffries family remain in everyone's prayers due to the recent loss of Mrs. Jeffries mother.

Citizens Input:

Mr. Larry felts, 999 Dortch Lane, stated that Ordinance 7-20 is of concern to him. He said when the Town was initiated they set up the zones and noted where the commercial was to be located. He stated that areas were set up north of Nolensville to be commercial overlays. He noted that Electronic Express, Bent Creek, the Post Office, and others wanted commercial. He noted that if this Board does away with that they have done away with everything the original Board initially set in place. He noted that if this Board passes this, it is the worst thing they could do for Nolensville and this Town. He stated that he was in Nolensville in 1983, when they said this area did not flood. He noted that it does flood. He ask the Board that they deny this request and make this a passive park and something Nolensville can be proud of in this Town.

Dr. James Clark, 921 Oldham Drive, stated that his point of concern was the flooding. He suggested that this Board not linger on questions, but realize it does flood. He stated that the land use plan is a guideline and is not etched in stone.

Mr. Roger Jenkins, 1692 Sunset Road, distributed a petition from citizens stating that they felt this building would affect their property in regards to flooding. He noted that if this Board had been here since he has, the Board wouldn't let them build a house at that property let a lone a commercial building. He noted that he felt a couple of Aldermen should not vote. Mayor Lothers noted that she had a description of conflict of interest and did not feel these members feel in that category. Mr. Jenkins stated that they work for the applicant and gave the Mayor a document that indicated Alderman Dugger as a Real Estate Agent for the applicant. Alderman Dugger stated that this listing had expired.

Ms. Lynda Moses, Rocky Springs Road, stated that Nolensville has been on the National News in regards to flooding. She stated that Williamson County Schools have been let out before due to flooding. She ask the Board before they allow any more development, to please clean up the damage of what the current developers have done. She stated that developing the Brittain property would only do more damage. She stated that Mill Creek behind that area always floods. She stated that citizens could give this Board more information for free than TDEC, the Core of Engineers or any one. She stated that August 6 should have been a wake up call.

Mr. Larry Gardner, 2536 York Road, stated that the people who have been here for years know this property tends to flood. Government should be based upon what is best for the entire community not for just a few people. He stated that if this is zoned commercial anything could go in there and then you will not be able to do anything with this property. He ask the Board not to zone this property commercial. He noted that the Town currently has vacant property right now.

Mayor Lothers made a clarification noting that tonight this Board is hearing an application. She stated that everyone has a right to bring forth an application.

Alderman Dugger made a motion to approve regular meeting minutes of October 4, 2007, Alderman Alexander seconded, and this was proved unanimously.

The treasurer's report for September was distributed to the Board. The Mayor noted that after review, due to computer posting issues she asked that this report be deferred until next month. The Board unanimously agreed to defer this report. Alderman Curtsinger stated that he had not received the Treasurer's report for the past several months. Mayor Lothers asked other Board members if they had received this report. The other Board members had gotten the treasurer's report. Mayor Lothers stated that if an Alderman does not receive an item in their packet that they get every month please contact the Town Recorder as soon as possible.

COMMITTEE REPORTS:

Chair Rick Owens reported for the Planning Commission.

- The Governors Commons office was reviewed
- Recommendation to amend the sub-division regulations was approved
- Critical lot issues were discussed

Mayor Lothers asked that the Planning Commission minutes be given to Board each month.

There was no report for the Historic Commission.

Fire Chief Presley Hughes reported for the Nolensville Volunteer Fire Department.

- Reminded the audience to change batteries in their fire detectors
- Noted that a pump truck has been out of service

Henry Laird reported for the Planning Department.

- Meeting with new Project Developers frequently
- Amendments are being reviewed for zoning ordinance
- Received new sketch plan to be submitted in the near futures

Consultant with Florence and Hutcheson, Mr. Bobby Garland, updated the Board on the progress of Rocky Fork Road. He noted that the bridge over Mill Creek is almost complete. He noted that as of October 31, based on the cost, Mountain States has received 69% of the contract. He

noted that there is an existing culver in Nolensville Road and some possible revisions may need to be addressed.

Police Chief Paul Rigsby reported for the Police Department.

- Written statistics were distributed
- Noted Halloween was quiet
- \$5,000 grant was awarded and the department hopes to purchase a radar trailer
- Reminded everyone of Veteran's Day Parade

Mayor Lothers commended Chief Rigsby for the grant money that has been received.

Mr. Bob Hayes reported for the Public Works Department.

- Noted banners and signs have been damaged due to wind
- Continue to pick up trash and this appears to be an ongoing problem
- Installed "Reduced Speed Ahead" signs
- Banners will be changed for the Veteran's Day celebration

Mayor Lothers thanked this department for their hard work.

Alderman Ken Thomas reported for the Town Events Committee

- Veterans Day Parade will be held November 10th
- Ninety-two Veterans have submitted information to date
- Ravenwood High School Band will perform
- Luncheon will be held at noon at Jenkins Cumberland Church provided by Martin's Bar-B-Que
- Everyone was encouraged to attend

Mayor's Report:

- a. Breast Cancer Proclamation

Mayor Lothers presented Mrs. Raylene King a proclamation that was read to the audience.

Ms. King thanked the Board for their continued support. She noted that they have raised \$11,000 for Breast Cancer. She invited everyone to attend the fundraiser that will be held on November 17th.

- b. Blood Donor Proclamation

Pastor Sandy Shawhan read the proclamation to the audience. She thanked the citizens for their continued support.

- c. Grant award/presentation

Mayor Lothers noted that the Town was awarded a Safe Routes To School Grant. She thanked Kevin Fortney and Karen Desselle of Williamson County Schools for their contribution to the

Grant. She commended the Town Planner Henry Laird, Mr. Bob Haines, the Principal of Nolensville Elementary School, Ms. Ferguson, the teachers and various others for all their hard work. Mayor Lothers demonstrated various aspects of the grant submission through a power point presentation.

d. Personnel Manual Changes

Mayor Lothers noted that she had met with MTAS Consultant Ron Darden and one of his initial recommendations is on the agenda tonight. He stated that this process, with a final good document, could be time consuming and take many months.

e. Capital Improvements Program

The budget committee will be meeting again this month. It is anticipated that a program will be on the agenda next month.

f. Appointments

Mayor Lothers noted that appointments must be made for the recently formed Construction Board of Appeals. The Mayor read a portion of the document noting the requirements of this Board. Mayor Lothers made a motion to approve the following nominations for this Board:

John Maynard Mike Cooper Jimmy Reese and Scott Walters

Alderman Thomas seconded the motion. Alderman Curtsinger asked if the Town had resumes on file for any of the nominations.

Alderman Dugger asked how long they would hold the position. Mr. Michael Blanks, Building Official, stated that it is his understanding these positions will rotate.

Mayor Lothers stated that if the Board was not comfortable this could be deferred. Alderman Dugger stated that phone numbers could be obtained so that the Board could contact the members to ask questions. Alderman Dugger stated that he did not feel a resume was necessarily needed. Mayor Lothers withdrew her motion, Alderman Thomas withdrew his second. She stated that more information would be given to the Board on these individuals.

g. Other

Bond release request for Phase 1, Section 1, Bent Creek, Letter of Credit for \$50,469.40

Town Planner Henry Laird stated that Cates and Kottas Development had submitted a letter requesting to release the maintenance bond on this phase and to formally dedicate this to the Board.

Alderman Curtsinger stated that Phase 1 is tied to Clovercroft road that has never been accepted. He inquired to how this process worked.

Mr. McNeely stated that each individual plat has its own bond associated with it. He stated that he did not think Clovercroft Road is associated with this maintenance bond. Alderman Alexander asked if this was an acceptance if approved. Mr. McNeely stated no. He added that he had met the requirements that the Town had requested. He noted that his company is following the procedures that are required by the Town. Alderman Curtsinger stated that the Clovercroft obligation has never been fulfilled and it was his feeling that this should not be reduced.

Counsel Notestine noted that the Town has never accepted Clovercroft Road and it was his understanding that the Town still has a bond on Clovercroft Road. Alderman Curtsinger noted that the Town has a performance bond and the Town has never accepted this road. Counsel Notestine stated that he believes the Town has kept a performance bond on this road.

Alderman Dugger stated that he remembered the stipulation that the road must be operational before building permits were issued in Phase Two. He stated that there is a performance bond on Clovercroft Road and if they do not perform that bond can be called. Mr. McNeely stated that this road is a separate bond and this is a part of the Town's bonding process.

Mayor Lothers made a motion to approve the release of this bond, Alderman Dugger second this motion. Alderman Dugger noted that this is a separate bond and a separate issue.

Alderman Thomas asked if the new Clovercroft Road is related to this at all. Planner Laird stated that he had looked into this. He noted that Engineer Don Swartz has been handling this issue. Alderman Curtsinger stated that this would drop leverage when signalization is discussed.

Mayor Lothers stated that she is not seeing the connection between the roads. Alderman Curtsinger referred to conditions that were placed on this development upon approval.

Alderman Alexander stated that he understands Alderman Curtsinger's point in regards to the approval and the condition that addresses this. He stated that he remembered a condition that referred to Clovercroft Road.

Mr. McNeely stated that his company is trying to get released from this bond. He further stated that he feels Clovercroft Road is a totally different issue. He further stated that the Town does not have anything in writing attaching this bond to Clovercroft Road. There was extensive discussion on this issue.

Mayor Lothers asked the Town Planner if he knew the conditions set out by the Board for approval of the Bent Creek PUD. Planner Laird said that he remembered there were conditions, although he wasn't sure exactly what these conditions were.

Counsel Notestine stated that the Town Engineer Don Swartz has recommended this be released and it is hoped that he researched this prior to his recommendation. He noted that Mr. Swartz is not here and that cannot be verified.

Mr. McNeely stated that his company has fulfilled the Town's obligation.

Alderman Dugger asked when the bond was reduced from performance to maintenance. Mr. McNeely stated this was done on November 23, 2005. Alderman Dugger said that he felt that this was premature, due to it being a two-year bond.

Alderman Alexander stated that he would like to know what the conditions were that the Board placed on the approval of this development.

Alderman Dugger stated that it was his understanding that the road was to be built and in place before getting permits on Phase 2. Mr. McNeely stated that his company finished the punch list that the Town had presented. Alderman Thomas said that it sounds the Town is protected, but he would like to see if the conditions had been met.

Planer Laird stated that he could run to the office and get those conditions.

The Mayor then recessed the meeting at 8:10.p.m.
The meeting reconvened at 8:30 p.m.

The Board reviewed the conditions that the Board passed upon approval of this PUD. Mayor Lothers then read the conditions focusing on “Construction of new road between Clovercroft Road and Nolensville Road must be completed within 18 months of commencement of on-site construction in Phase 1.”

Mayor Lothers stated that she had spoken with the property owner and they feel this is two separate issues and is comfortable with the release of this bond. Alderman Curtsinger stated that he felt if this goes to court and he feels that \$68,000 would not cover this cost. Alderman Alexander stated that he uses this road daily and does feel better after reading this condition.

The vote was taken and Mayor Lothers, Aldermen Alexander, Dugger, and Thomas voted for the release of this bond, Alderman Curtsinger voted against. This was released by majority vote.

Public hearing of ordinance 07-19, an ordinance to amend the zoning map to rezone property currently Suburban Residential (SR) to Commercial Services (CS) with a Commercial Corridor Overlay (CCO) known as the Camron Property opened 8:36 p.m. There was no comment and the public hearing closed at 8:36 p.m.

Second Reading of ordinance #07-18 an ordinance to amend Title 15, Section 15-111, of the Municipal Code in regards to obedience to traffic control devices and avoiding intersections. Mayor Lothers made a motion to pass this ordinance, Alderman Alexander seconded, and this passed unanimously.

Second reading of ordinance #07-16, an ordinance to amend the Zoning Ordinance #04-09, in regards to architectural standards in the Office Industrial (OI) Zoning Districts. Alderman Dugger made a motion to approve this ordinance, Alderman Thomas seconded. The vote was then taken and this passed by majority. Mayor Lothers, Aldermen Alexander, Dugger, and Thomas voted for, Alderman Curtsinger voted against.

Second reading of ordinance #07-21, an ordinance to amend Title 7, Chapter 1-2, Title 12, and Chapter 1 - 9, of the Municipal Code in regards to Fire and Building Codes. Alderman Dugger

made a motion to approve this ordinance, Mayor Lothers seconded. Mayor Lothers noted that she had attended a TML Conference and discussed this particular ordinance. She noted that she was advised that the latest code can be adopted and you are allowed to remove portions of this code and do not have to adopt it in its entirety. The vote was taken and this was passed unanimously.

First reading of ordinance #07-20, an ordinance to amend the Zoning Map to rezone property currently Estate Residential (ER) to Commercial Services (CS) with a Commercial Corridor Overlay (CCO) known as the Cutler-Kelley property

Mayor Lothers noted that this was deferred from last month due to questions being raised by Board members. She noted that she had met with Mr. Allen and distributed two memos to the Board addressing this issue.

Mr. Doug Cutler, the applicant for the zoning request noted that his wife is from Williamson County and he lives at 9556 Concord Road. He noted that tonight a zoning request is before the Board and it must go before the Planning Commission and at that it must meet FEMA requirements.

Mayor Lothers noted that the plan that was presented to the Board cannot be constructed on this piece of property. She noted that she understood that he is trying to separate a zoning and engineering issue, however a plan has been circulated that violates the Towns Floodplain regulations.

Mr. Ken Kelley, current property owner addressed the Board. He noted that when this was initially presented there wasn't a plan. He noted that he was told to use FEMA's rules and use the maximum. She noted that she had met with FEMA consultants. They reviewed the Town's floodplain regulations and stated they were strict enough to participate in the FIP; they are stricter than FEMA's.

Mr. Kelley clarified to the Board that this is not a firm plan. Mayor Lothers stated that anything that is presented must be done per the Town's regulations. She noted that only the far west side could be developed, not in the location that is being shown. Mr. Kelley stated that they are merely trying to figure what can be done with this piece of property. Mayor Lothers stated that the Land Use Policy Plan does not guarantee that commercial could be there. Mr. Kelley said that it was my understanding that the first step would be to get this property rezoned. Mayor Lothers stated that her concerns are that our flood regulations are what the Town must follow. She stated that when she sees this plan it does not indicate those rules are being followed.

Alderman Alexander asked Mr. Kelley if it would be helpful for them to look at what could be developed prior to requesting this to be rezoned. Mayor Lothers stated that maybe the Town's process should be reviewed, in addition to this Board trying to make a decision without the full knowledge.

Alderman Curtsinger stated that prior to getting into discussion, maybe a motion should be placed on the floor. Alderman Curtsinger made a motion to deny this zoning, this motion died for a lack of a second.

Mayor Lothers clarified with counsel if the Board should have a motion on the table with a second prior to discussion. Counsel Notestine noted that there could be discussion without a motion, although there cannot be any deliberation. Mayor Lothers clarified that this the correct process if it is possibly deferred. Counsel Notestine stated that the applicant always has the right to request a deferral. He noted that if the Board declines it, this request could not come back for one year. He further noted that asking questions with the consultants is part of the process.

Mr. Tom Allen noted that he did not recall requesting this applicant to submit a plan.

Alderman Curtsinger noted that in the memo, is it a true statement where you referred to Article 5. Mr. Allen stated yes. Alderman Curtsinger noted that if the Board changes the zoning the applicant is put in a position to obtain a variance. He further noted that the cottage that is currently on the property was a non-conforming use, when the Town was incorporated.

Alderman Alexander asked if there was any opportunity of development at the corner of Sunset and Nolensville Road realistically. Mr. Allen stated that it could be done from an engineering perspective, assuming rezoning is obtained, all variances are received, and numerous letters received from FEMA.

Mr. Allen stated that the Zoning Ordinance says that every cubic yard you place onto the property, you must remove one cubic yard. Alderman Dugger asked if cut and fill was allowed. Mr. Allen stated yes, as long as it is “tit for tat” so to speak. He further noted that for the cut and fill you would have to obtain a variance and a grading plan for this area must be submitted and reviewed. Mr. Allen further noted that if the applicant obtains the rezoning, the Planning Commission would have to give approval to develop the property.

Alderman Curtsinger noted to Planner Laird that the Land Use Plan discusses strip zoning. He stated that if this were so, it would not be able to go east or west. Mr. Laird stated that in 2005 the Planning Commission approved the Land Use Plan with commercial in Town and shows the floodplain. Mr. Laird stated that in the written text it says development shall be limited.

Alderman Curtsinger stated that there is no discussion about the floodplain. He inquired to Mr. Laird if he felt that was important and should be discussed prior to approval and forwarding on to the Board of Mayor and Aldermen. Planner Laird stated that he did not recall any detail, although it must be clarified that it is properly zoned. Mayor Lothers stated that a concept plan was not given to the Planning Commission.

Alderman Dugger clarified with staff that currently the applicant is requesting a rezoning. He stated that the site plan comes down the road in the process. He clarified with the applicant that he turned in a “blue sky” request so that it could be determined what can be done on this property. Mr. Kelley, applicant, agreed.

Mayor Lothers stated that the difficult portion is Article 5 in the Zoning Ordinance states in regards to floodplain to permanently protecting open space. Mr. Kelley stated that the total acreage is 16 acres and the “blue sky” request shows approximately 6 acres.

Mr. Mike Anderson, Engineer for the applicant, stated that the Mayor was correct. He noted that these rules were patterned after Metro Nashville. He stated that the reason people go before the Board is the process that is set up. He noted that it is similar in Franklin and Brentwood. He noted that everyone looks to Metro on these issues and this is one of the reasons for this Board. Mr. Anderson stated that the Land Use Policy Plan is asking if this is going to be a residential or commercial development. The applicant completely understands. He noted that Mr. Fly (with Delk, Anderson & Associates) has put this together. He is extremely ill and could not be here this evening. Mr. Anderson reiterated that the rules are outlined in the Town’s zoning ordinance.

Alderman Thomas said that this is a difficult situation. He noted that there is not a person in this room that is not concerned about floodwaters and how it would affect other property owners. He noted that he was an untrained person in the Engineering field. He noted that the Board has to take the advice from experts, the ones that have been trained in this area. Alderman Thomas stated that the Board must look at what is the future for the next 20 years here in Nolensville. He added to look at what is fair and best for Nolensville. Alderman Thomas stated that as an elected official he should listen to the concerns of the citizens and he hears these valid concerns. He noted that there are two issues, a zoning issue, and an engineering issue. Alderman Thomas stated that currently the question is does this make sense to zone this commercial. He also added that the Board should not put the cart before the horse. He noted that it is responsible to look ahead, but the Board needs to be careful not to impede what is before the Board.

Alderman Alexander stated that it is his understanding that the Board is hearing zoning request and then it is left up to the Planning Commission and then the Board of Zoning Appeals. He noted that at that point it is taken out of this Board’s hands.

Alderman Dugger noted that this is a zoning issue and is a total separate issue from a site plan issue. He stated that if it is zoned commercial the applicant still has a tough road with the ordinances and FEMA requirements. Alderman Dugger made a motion to approve to rezone, which complies with the Town Land Use Policy Plan, Alderman Alexander seconded. Alderman Alexander noted that this is only the first reading of a zoning request without a site plan.

Mayor Lothers stated that when she looks at that she is not comfortable with doing a blanket zoning for the entire piece of property.

Alderman Curtsinger referred to Article 5, noting that it is pretty explicit on what the Zoning Ordinance says. He stated that the idea earlier was to protect this side of Nolensville Road. He noted that everyone has seen it flood and anything that is done there may affect the property up stream. He stated that you could hire an engineer to say anything.

Alderman Alexander stated that he disagreed in regards to buying an engineer. He noted that they put their career on the line.

Mayor Lothers apologized for the comments earlier in regards to conflict of interest. She noted that she had recently attended Alderman Thomas's ordaining as a minister. She noted that it was implied that he had a conflict. She stated that this Board cares for what is best for Nolensville although they may have different opinions on how to achieve it.

Mr. Kelley said that his intentions are to go through the process that Nolensville has set out. He noted that he felt there was a way that this project could be done in the flood way in a beautiful way.

Mayor Lothers stated that it concerns her that Mr. Kelley said developing the flood way. Flood way is different than flood plain and our regulations do not allow building in the flood way. Mr. Kelley said that it is all one piece of property. Mr. Kelley stated that he would research different avenues that could be taken for this project.

Counsel Notestine noted that this is an unusual piece of property. He suggested that it might be able to be sub-divided. Alderman Dugger asked if it could be subdivided due to it being a lot of record of 1981 with a decision where the property could not be divided.

Alderman Curtsinger stated that it is a farm and is a non-conforming use. Counsel Notestine stated that it is a legal non-conforming use.

Mayor Lothers noted that she recently attended a TML conference and the liability that she undertakes is high. She said that she wants to make sure she adheres to the strictest floodplain guidelines.

Alderman Thomas stated that he is part of Connect Ministries, which is a tenant of Mr. Kelley. He stated that due to the concerns that other people have, he would be recusing himself from this vote.

Mr. Kelley asked the Board for an indefinite deferral. Alderman Curtsinger stated that maybe this needs to go back before Planning Commission.

Alderman Dugger withdrew his motion for approval, Alderman Alexander withdrew his second. Alderman Dugger made a motion to postponed indefinitely, Alderman Alexander seconded.

Alderman Curtsinger asked if it wouldn't be better to go back to the Planning Commission. He said that he did not think this Commission took into consideration any of the flood plain issues. Mr. Kelley reiterated they were guided to come before this Board.

The vote was taken for deferral and this was passed by majority. Mayor Lothers, Aldermen Alexander, and Dugger voted for, Alderman Curtsinger voted against, and Alderman Thomas abstained.

First reading of Ordinance #07-22 an ordinance to amend the zoning ordinance 04-09, in regards to the National Flood Insurance Program. Mayor Lothers made a motion to approve this ordinance, Alderman Dugger seconded, and this was approved unanimously.

Reading resolution #07-12, a resolution to amend the Personnel Manual in regards to the Grievance policy. Mayor Lothers noted that at the workshop in February with MTAS Consultant Ron Darden and the Board the recommendation was that termination should be final with the Mayor. She noted that this resolution allows the Town to comply with that recommendation. Counsel Notestine noted that on page two, in the fourth paragraph it should end after involved. He further noted that “to chancery court or circuit court by the employee”, should be deleted.

Mayor Lothers made a motion to amend the resolution to reflect Counsels recommendations, Alderman Alexander seconded. The vote was taken on the amendment and was approved unanimously.

Mayor Lothers made a motion to approve this resolution as amended, Alderman Alexander seconded.

Alderman Curtsinger asked if this should be discussed due to the current case that is taking place. Counsel Notestine stated that he did not feel this would affect that case.

The vote was taken and approved unanimously as amended.

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Other:

Alderman Dugger mentioned that Lynda Moses sent an email to him in regards to flying the United States flag and having the appropriate guidelines in lighting the flag. He noted that he wanted to bring this to the Boards attention.

Mayor Lothers stated that she would keep the Board informed on the signalization at the new Rocky Fork-Nolensville-Clovercroft Road intersection.

The meeting adjourned at 9:54 p.m. by acclamation.

Respectfully submitted,

Approved,

Cindy Lancaster
Town Recorder

Beth Lothers
Mayor